

Change of Zone No. 3284

ORDINANCE NO. _____

1 AN ORDINANCE amending Sections 27.58.010, 27.58.020, 27.58.030,
2 27.58.050, 27.58.060, 27.58.080, and 27.58.100 of the Lincoln Municipal Code and
3 repealing Section 27.58.070 of the Lincoln Municipal Code to delete all references to and
4 provisions regarding Airport Environs Noise District 2; and repealing Sections 27.58.010,
5 27.58.020, 27.58.030, 27.58.050, 27.58.060, 27.58.080, and 27.58.100 of the Lincoln
6 Municipal Code as hitherto existing.

7 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

8 Section 1. That Section 27.58.010 of the Lincoln Municipal Code be amended
9 to read as follows:

10 **27.58.010 Scope of Regulations.**

11 The regulations set forth in this chapter, or set forth elsewhere in this title when referred
12 to in this chapter, are regulations in the Airport Environs Noise District. The regulations shall
13 apply to the area in the vicinity of the Lincoln municipal airport defined as Airport Environs
14 Noise District 1 ~~and Airport Environs Noise District 2~~ in Section 27.58.020. References to
15 specific Ldn lines shall mean those Ldns as shown on the "Airport Environs Noise District
16 Map."

17 Section 2. That Section 27.58.020 of the Lincoln Municipal Code be amended
18 to read as follows:

19 **27.58.020 Definitions.**

20 For the purpose of this chapter, certain terms and words are hereby defined:

21 **Airborne noise** shall mean noise radiated initially into and transmitted through air.

Airport Environs Noise District 1 shall mean an area established on the Airport Environs Noise District Map dated June 1, 2000 (hereinafter Airport Environs Noise District Map), and more particularly described as follows:

Beginning at a point located on Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East, heading north approximately 8,100 feet along Southwest 12th Street, the eastern borders of Sections 9, Township 9 North, Range 6 East, and 4, Township 9 North, Range 6 East, and Section 33, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad; heading then northeast approximately 2,000 feet along the railroad tracks; then heading north approximately 8,200 feet through the western half of Section 34, Township 10 North, Range 6 East, along Southwest 9th Street and the western half of Section 27, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad, 500 feet south of West "O" Street; following the railroad tracks northeast to the eastern border of Section 22, Township 10 North, Range 6 East; following the tracks of the Union Pacific Railroad northwesterly to Northwest 12th Street; heading then north along Northwest 12th Street to the southeast corner of Section 28, Township 11 North, Range 6 East; heading then east approximately one mile to North 1st Street; heading then north along North 1st Street to the city's three-mile zoning jurisdiction line; heading then west along the city's three-mile zoning jurisdiction line to Northwest 40th Street; heading then south to the southwest corner of Section 20, Township 11 North, Range 6 East; heading then west on McKelvie Road to the northwest corner of Section 25, Township 11 North, Range 5 East; heading then south on Northwest 70th Street to Fletcher Avenue; heading then east along Fletcher Avenue to Northwest 56th Street; heading then south on Northwest 56th Street approximately 19,400 feet to Interstate 80; heading then west along Interstate 80 to the western border of Section 24, Township 10 North, Range 5 East; heading then south along the western borders of Sections 24, Township 10 North, Range 5 East and 25, Township 10 North, Range 5 East to West "A" Street; heading then east along West "A" Street to the southwest corner of Section 30, Township 10 North, Range 6 East; heading then south along the western border of Section 31, Township 10 North, Range 6 East to Van Dorn Street; heading then east on Van Dorn Street to Southwest 40th Street; heading then south on Southwest 40th Street to West Claire Avenue; and then heading east along West Claire Avenue to its termination at Coddington

1 Avenue and then further east approximately 2,700 feet to a point
2 located at Southwest 12th Street at the southeast corner of the
3 northern half of Section 9, Township 9 North, Range 6 East.

4 ~~**Airport Environs Noise District 2** shall consist of three rectangular areas located within~~
5 ~~Airport Environs Noise District 1 shown as runway protection and special use zones on the~~
6 ~~Airport Environs Noise District Map. Said Airport Environs Noise District Map is incorporated~~
7 ~~herein by this reference. The Airport Environs Noise District Map is located in the office of the~~
8 ~~City Clerk with a copy located in the office by the Planning Director. The said runway~~
9 ~~protection and special use zones are more particularly described as follows:~~

10 ~~————— (1) ——— A rectangular area bounded on the north by the southern end of runway~~
11 ~~17R/35L of the Lincoln municipal airport and on the south by the northern boundary of the~~
12 ~~state reformatory, and extending 1,250 feet laterally to both east and west sides as measured~~
13 ~~from the extended central line of runway 17R/35L.~~

14 ~~————— (2) ——— A rectangular area bounded on the southeast by the northwestern end~~
15 ~~of runway 14/32 of the Lincoln municipal airport and extending northwesterly a distance of~~
16 ~~5,200 feet and extending 1,250 feet laterally to both northeast and southwest sides as~~
17 ~~measured from the extended central line of runway 14/32.~~

18 ~~————— (3) ——— A rectangular area bounded on the south by the northern end of runway~~
19 ~~17R/35L of the Lincoln municipal airport and extending north a distance of 5,200 feet and~~
20 ~~extending 1,250 feet laterally to both east and west sides as measured from the extended~~
21 ~~central line of runway 17R/35L.~~

22 **Day-night average sound level (Ldn)** shall mean the sum of noise emission equivalent
23 of A-weighted sound level during a 24-hour day typifying annual average conditions after
24 addition of 10 decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m.

25 **Exterior door** shall mean all exit doors of a building that are located between
26 conditioned and unconditioned space. A basement, crawl space, or garage is considered
27 unconditioned space unless it is provided with a positive heat supply to maintain a minimum
28 temperature of 50 degrees F.;

1 **Habitable space** shall mean space or room in a structure for living, sleeping, eating,
2 or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar
3 areas are not considered habitable space.

4 **Noise-sensitive manufacturing and noise-sensitive communication facilities** shall
5 include, but not be limited to, the manufacture and assembly of micro-electronics, technical
6 and scientific instruments, photographic and optical goods, and other manufacturing sensitive
7 to speech interference or vibration, and radio and television broadcasting studios.

8 Section 3. That Section 27.58.030 of the Lincoln Municipal Code be amended
9 to read as follows:

10 **27.58.030 Use Regulations.**

11 Any use permitted in the underlying zoning district in which the proposed use is
12 located shall be allowed in the Airport Environs Noise District 1 ~~and Airport Environs Noise~~
13 ~~District 2~~ except as prohibited within the provisions of this chapter and, provided that
14 additional requirements set forth in this chapter are met. References to allowable uses as
15 provided within this chapter are conditioned upon the said use being in compliance with
16 allowable uses within the underlying zoning district.

17 Section 4. That Section 27.58.050 of the Lincoln Municipal Code be amended
18 to read as follows:

19 **27.58.050 Permitted Uses in Relation to Noise Exposure Levels.**

20 (a) A use of a building or premises for the following purposes may be allowed in
21 the Airport Environs Noise District 1 ~~and Airport Environs Noise District 2~~ if it lies within the
22 specified noise exposure levels shown below, conditioned upon compliance with Section
23 27.58.080 of this chapter.

24 (1) Mobile home courts, schools, libraries, churches, health care facilities,
25 auditoriums, concert halls, housing for the elderly, and music shells, not to exceed Ldn 65
26 line.

1 (2) Hotels and motels, playgrounds, neighborhood parks, noise-sensitive
2 manufacturing, and noise-sensitive communication facilities, not to exceed Ldn 70 line.

3 (3) Cemeteries, mausoleums and undertaking establishments, riding, water
4 sports, tennis courts, skating rinks, bowling alleys and other recreational facilities, theaters,
5 spectator sports, and veterinary facilities and kennels, not to exceed Ldn 75 line.

6 (4) Office buildings, personal business, governmental services, com-
7 munication facilities, extensive natural recreational areas, financial institutions, retail trade,
8 restaurants, bars, amusements, sports arenas, golf courses and related support facilities, whole-
9 sale, manufacturing, construction services, repair services, livestock farming, animal breeding,
10 utilities, agriculture, mining, fishing, forestry, warehouses, storage facilities, historical
11 preservation, wind energy conversion systems, transportation facilities, no noise-related
12 restrictions.

13 (b) Where property is undeveloped, only such portion of it as is actually within the
14 Ldn lines shall be considered at or within that Ldn line. However, at such time as said prop-
15 erty shall be subdivided or platted, any platted buildable lots intersected by an Ldn line shall
16 be deemed to be wholly within the highest Ldn line.

17 Section 5. That Section 27.58.060 of the Lincoln Municipal Code be amended
18 to read as follows:

19 **27.58.060 Conditional Permitted Residential Uses in Relation to Noise Exposure Levels.**

20 (a) A building or premises may be used for residential purposes in Airport Environs
21 Noise District 1 in areas between Ldn 65 line and Ldn 70 line, in conformance with the re-
22 quirements of Section 27.58.080 of this title and the conditions prescribed herein:

23 (1) Prior to applying for a building permit, an applicant shall prepare and
24 submit to the Planning Director for his review and approval a site plan for the proposed
25 building or buildings which shall be designed to minimize the impact of noise. This may
26 include, but need not be limited to:

1 (i) Placing as much distance as possible between the noise source
2 and noise-sensitive activities;

3 (ii) Placing noise-compatible activities, such as parking lots and open
4 space, between the noise source and the sensitive activities;

5 (iii) Using buildings as noise barriers;

6 (iv) Orienting buildings so that nonhabitable space, such as utility
7 rooms, laundry rooms and garages, are located between the noise source and the habitable
8 space;

9 (v) Utilizing the site's natural shape and contours or constructing
10 noise barriers between noise sources and noise-sensitive areas. Such noise barriers may
11 include but need not be limited to berms made of sloping mounds of earth, walls and fences
12 constructed of a variety of material, dense plantings of trees and shrubs, e.g., 100-foot depth,
13 and any of these combinations.

14 (2) The site plan submitted to the Planning Director shall be accompanied
15 by the following information:

16 (i) An accurately drawn plan showing location of existing and
17 proposed structures on the property, open space, parking areas, location of existing trees,
18 proposed landscape plans, sidewalks, floor plan identifying bedrooms, kitchens, living rooms,
19 garages, etc., lot lines and building setback lines;

20 (ii) Contour lines at intervals not to exceed five feet based on city
21 data, if the site has not been platted;

22 (iii) Location of site with relation to specific Ldn lines;

23 (iv) Grading plan, if any;

24 (v) Discussion of additional steps to minimize the noise impact, if
25 any;

26 (vi) Date prepared, scale, and north point;

27 (vii) Name, address and telephone number of applicant;

1 (viii) Other relevant information, if any, relating to noise attenuation.

2 (3) Within twenty days from the receipt of a site plan with the required
3 information, the Planning Director shall notify the applicant and the Director of Building and
4 Safety whether or not the site plan has been approved or disapproved. If the site plan is
5 disapproved, the Planning Director shall specify the reasons for such disapproval. A site plan
6 shall be approved if it reflects a reasonably effective method of minimizing the impact of the
7 noise to which the proposed building or buildings would be subjected.

8 (4) If the site plan is approved by the Planning Director, a building permit
9 may be issued by the Director of Building and Safety provided that the building plan shows
10 a design that incorporates acoustical features described below in addition to all other
11 applicable requirements of the Lincoln Building Code as now existing or hereinafter amended:

12 (i) All exterior doors shall be either:

13 A. solid-core or metal-clad construction of at least 1 3/4 inches
14 thick, or

15 B. separately equipped with wood or metal storm door.

16 (ii) Storm or multiple-glazed windows shall be provided for all
17 habitable space.

18 (iii) Through-the-wall/door mailboxes, window or dome skylights,
19 jalousie windows, or other direct openings from the interior to the exterior of the building
20 shall be prohibited.

21 (iv) Mechanical ventilation shall be provided of a type and design to
22 provide adequate environmental comfort with all doors and windows closed during all
23 seasons. Window and through-the-wall ventilation units shall not be used.

24 (v) Workmanship on doors and windows must be such that they are
25 as close-fitting as possible or weather-stripping seals shall be incorporated on all edges to
26 eliminate gaps.

1 (5) In the event that the Planning Director disapproves the site plan, the
2 applicant may, within ten days after notification of such disapproval, appeal the decision of
3 the Planning Director to the City Council. The City Council shall, by resolution, affirm,
4 reverse, or modify the decision of the Planning Director.

5 ~~(b) If the premises is located in both Airport Environs Noise District 1 and Airport~~
6 ~~Environs Noise District 2, the premises may be used for the above described uses in~~
7 ~~conformance with the requirements of paragraph (a) above and the following conditions:~~

8 ~~————— (1) That portion of the premises located in Airport Environs Noise District~~
9 ~~1 shall comply with the minimum lot requirements including, but not limited to, lot area and~~
10 ~~required yards of the underlying zoning district for such use:~~

11 ~~————— (2) No residential structure shall be located on that portion of the premises~~
12 ~~located in Airport Environs Noise District 2, except for (i) residential structures to be occupied~~
13 ~~by resident security guards, caretakers, or supervisory personnel employed and residing on the~~
14 ~~premises, (ii) private garages and storage buildings used exclusive for the storage of motor~~
15 ~~vehicles and storage of other items accessory to permitted residential uses, and (iii) pre-~~
16 ~~existing uses as provided in Section 27.58.090.~~

17 Section 6. That Section 27.58.070 of the Lincoln Municipal Code be and the
18 same is hereby repealed.

19 **~~27.58.070 Prohibited Uses, Airport Environs Noise District 2:~~**

20 ~~————— (a) All residential use is prohibited within Airport Environs Noise District 2, except~~
21 ~~(1) as provided in Section 27.58.060 for residential use of a premises located in both Airport~~
22 ~~Environs Noise District 1 and Airport Environs Noise District 2, (2) for resident security guards,~~
23 ~~caretakers or supervisory personnel employed and residing on the premises, and (3) pre-~~
24 ~~existing uses as provided in Section 27.58.090.~~

25 ~~————— (b) All regulations contained herein with regard to uses within Airport Environs~~
26 ~~Noise District 1 shall be applicable to Airport Environs Noise District 2.~~

1 Section 7. That Section 27.58.080 of the Lincoln Municipal Code be amended
2 to read as follows:

3 **27.58.080 Avigation and Noise Easements; Covenant, Notice and Acknowledgment.**

4 (a) ~~All uses allowed within Airport Environs Noise District 2 except as provided in~~
5 ~~Section 27.58.090 shall be conditioned upon an acknowledgment by the property owner of~~
6 ~~the airport noise and overflight impact by the grant of an avigation and noise easement to the~~
7 ~~airport authority of the City of Lincoln, Nebraska, providing for disclosure of the impact to~~
8 ~~future purchasers, as a condition of subdivision, community unit plan, use permit, or building~~
9 ~~permit. Avigation easements submitted pursuant to the terms of this chapter shall conform to~~
10 ~~the provisions contained in the model avigation and noise easement, a copy of which shall~~
11 ~~remain on file in the office of the Executive Director of the Lincoln Airport Authority and the~~
12 ~~City Clerk of the City of Lincoln.~~

13 ~~——(b)~~ All uses allowed within Airport Environs Noise District 1, except as provided
14 in Section 27.58.090 shall be conditioned upon the grant by the property owner of a
15 covenant, notice, and acknowledgment that the property is located in Airport Environs Noise
16 District 1, providing for the disclosure of the airport noise and overflight impact to future pur-
17 chasers, as a condition of subdivision, community unit plan, special permit, use permit, or
18 building permit. Covenant, notice, and acknowledgment that property is located in Airport
19 Environs Noise District 1 to be submitted pursuant to the terms of this chapter shall conform
20 to the provisions contained in the model covenant, a copy of which shall remain on file in the
21 office of the Executive Director of the Lincoln Airport Authority and the City Clerk of the City
22 of Lincoln.

23 Section 8. That Section 27.58.100 of the Lincoln Municipal Code be amended
24 to read as follows:

25 **27.58.100 Enforcement and Exemption.**

26 (a) Prior to the issuance of a building permit or other certificate, the Director of
27 Building and Safety shall receive either the executed avigation and noise easement for prop-

erty in Airport Environs Noise District 2 or the executed covenant, notice, and acknowledgment for property in Airport Environs Noise District 1 which shall then be forwarded to the Airport Authority or shall have received evidence that the executed easement or covenant was previously furnished to the Airport Authority. All easements and covenants shall be forwarded to the Airport Authority, which shall then be filed with the Register of Deeds at Authority's expense.

(b) Uses in connection with the operation of the Lincoln municipal airport, and properties owned or leased by the City of Lincoln, the Airport Authority of the City of Lincoln, military units, or other governmental agencies are hereby declared compatible and shall be exempted from the requirements of this chapter.

Section 10. That Sections 27.58.010, 27.58.020, 27.58.030, 27.58.050, 27.58.060, 27.58.080, and 27.58.100 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

Section 11. That this ordinance shall take effect and be in force from and after its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant